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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,843	09/28/2000	Lee G. Dante	OREX.004DD	7299
20995 7590 05/28/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER THOMAS, TIMOTHY P				
ART UNIT		PAPER NUMBER		
1614				
NOTIFICATION DATE		DELIVERY MODE		
05/28/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09672843	9/28/2000	DANTE, LEE G.	OREX.004DD

EXAMINER

TIMOTHY P. THOMAS

ART UNIT	PAPER
1614	20080521

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

1. The reply filed on 4/2/2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the amendment to the claims completely canceled the subject matter previously under examination and introduced new claims, drawn to a patentably distinct invention from the previously presented claims; claims 26-31 are withdrawn as drawn to a nonelected invention, as described below; therefore there are no claims present currently under examination. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**
2. Newly submitted claims 26-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
3. The claims are restricted into the following separate inventions:

Group I, (canceled claims), drawn to a method of treating depression associated with alcoholism

- [Group II, claims 26-31, drawn to a method of decreasing cravings for sugars and carbohydrates associated with tricyclic or atypical antidepressant therapy

4. Inventions I and II are directed to related inventions. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have a different function and effect. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- a) The inventions have acquired a separate status in the art in view of their different classification;
- b) The inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- c) The inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- d) The prior art applicable to one invention would not likely be applicable to another invention;
- e) The inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall

be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 26-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P. Thomas whose telephone number is (571) 272-8994. The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

/Timothy P Thomas/
Examiner, Art Unit 1614